

JUN 6 2012



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 12-56
Preliminary Plan No. 12001042A
Palatine, Lot 17, Block E
Date of Hearing: May 31, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on March 22, 2001, the Planning Board, by MCPB Opinion Mailed on June 5, 2001, approved Preliminary Plan No. 120010420; creating two lots on 4.21 acres of land in the RE-2 zone, located at 11809 Centurion Way ("Subject Property"), in the Potomac Subregion master plan ("Master Plan") area; and

WHEREAS, on January 9, 2012, James Whang ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan to remove 3,080 square feet of an existing Category 1 forest conservation easement on the Subject Property, and replace it with 6,144 square feet of new Category 1 forest conservation easement on the Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12001042A, Palatine, Lot 17, Block E ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 18, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 31, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the Hearing, the Planning Board voted to approve the Application subject to certain conditions, in accordance with the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910

M-NCPPC Legal Department
www.MCParkandPlanning.org

Chairman's Office: 301.495.4605 Fax: 301.495.1320

E-Mail: mcp-chairman@mncppc.org

Preliminary Plan No. 12001042A to remove 3,080 square feet of Category 1 Forest Conservation Easement, replacing it with 6,144 square feet of new Category 1 Forest Conservation Easement on the Property subject to the following conditions:¹

1. Applicant must submit a complete record plat application within three (3) months of the mailing of this Planning Board Resolution approving Preliminary Plan No. 12001042A. The record plat must show a Category I conservation easement over the existing easement area reduced by the 3,080 square foot area approved for release; and increased by the 6,144 square foot area approved for replacement. The existing easement will remain in full force and effect until the new record plat is recorded.
2. Within one year of the date of mailing of the Planning Board Resolution, the Applicant must provide supplemental plantings within the entire forest conservation easement area as shown on forest conservation plan as revised, to improve the existing forest structure.
3. The Applicant must enter into a maintenance and management agreement approved by Staff, and post the required surety to ensure compliance with conditions of the final forest conservation plan as revised.

BE IT FURTHER RESOLVED, that all other preliminary plan conditions of approval for this project remain valid, unchanged, and in full force and effect.

BE IT FURTHER RESOLVED, that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.*
2. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and the protection of environmentally sensitive features.*

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

The Planning Board policy for the removal of conservation easement as determined in October of 2008, is generally acceptable if replaced on-site at a ratio of 1:1; because it provides in-kind and in-place compensation for what is being removed within the same watershed. However, the existing conservation easement on the Property contains forest, stream valley buffer ("SVB"), and in some parts is located within the 100-year floodplain. The easement area to be removed does not impact any easement within 100-year Floodplain; however, some of the easement within the SVB will be removed.

The new easement boundary aligns with off-site easements to the north and east on the adjacent lot to the west, Lot 8, Travilah Grove Subdivision, creating a large contiguous area of Category I conservation easement. While the new easement area does not meet the technical definition of SVB, it will serve many of the same features and expand protection to adjacent areas of SVB.

The increased mitigation at a 2:1 ratio on-site, along with supplemental plantings throughout the entire easement is appropriate in this instance because it is the result of an encroachment into the existing easement; and some of the easement within the SVB is being removed.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for _____ months from its initiation date (as defined in Montgomery County Code Section 50-35(h), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 6 2012 (which is the date that this Resolution is mailed to all parties of record); and

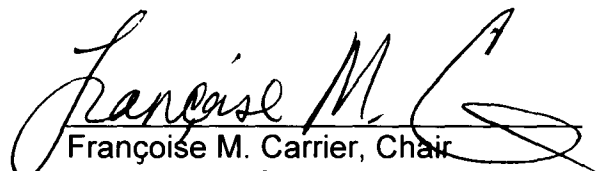
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion at its regular meeting held on Thursday, May 31, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board